

# Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

DAVID M. BOWMAN
DIRECT (206) 628-7641
davidbowman@dwt.com

2600 CENTURY SQUARE 1501 FOURTH AVENUE SEATTLE, WA 98101-1688 TEL (206) 622-3150 FAX (206) 628-7699 www.dwt.com

April 22, 2005

Via Facsimile (360) 337-7083

Alan Miles, Esq. Kitsap County Prosecuting Attorney's Office 614 Division Street, MS 35A Port Orchard, WA 98366-4681

Re: Borders, et al.

Dear Mr. Miles:

I am enclosing a new Subpoena Duces Tecum, Attachment A and exhibits directed to Kitsap County. The enclosed Subpoena replaces the Subpoena we sent you dated April 13, 2005, pursuant to which Kitsap County has been searching for responsive documents.

Attachment A now references two exhibits, comprising a list of felons who *voted* in Kitsap County in the 2004 General Election (Exhibit 1) and a list of those voters in the 2004 General Election who were *convicted* in Kitsap County of one or more felonies (Exhibit 2). All of these individuals have been previously disclosed to the Election Contest parties in the Petitioners' April 15, 2005 list of votes being contested. Those document requests relating to voter records are directed to the County Auditor, and the document requests relating to court files are directed to the County Clerk.

Thank you for your flexibility in accepting service by fax on behalf of the Auditor and Clerk's Offices. We want to make this as convenient as possible for your clients and welcome any additional dialogue necessary to help obtain the information needed. Please let me know if you have any questions.



We appreciate your continued assistance.

Very truly yours,

Davis Wright Tremaine LLP

David M. Bowman

**Enclosures** 

cc: Peter Schalestock, Esq.

Harry J. F. Korrell, Esq. Robert J. Maguire, Esq.

All Parties

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## IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF CHELAN

TIMOTHY BORDERS et al., No. 05-2-00027-3 Petitioners, v. SUBPOENA DUCES TECUM KING COUNTY et al., Respondents. and Washington State Democratic Central Committee, Intervenor-Respondent, and Libertarian Party of Washington State et al., Intervenor-Respondents.

#### STATE OF WASHINGTON

To:

Kitsap County Auditor, with respect to document requests 1, 2 and 3 of

Attachment A

Kitsap County Clerk, with respect to document requests 4 and 5 of

Attachment A

C/O:

Alan Miles, Esq.

Kitsap County Prosecuting Attorney Mscs 35A, 614 Division Street Port Orchard, WA 98366-4681

FAX: (360) 337-7083

### **GREETINGS:**

YOU ARE HEREBY COMMANDED to be and appear as follows:

PLACE:

Kitsap County Prosecuting Attorney's Office

614 Division Street

Port Orchard, WA 98366-4681

DATE:

Friday, April 29, 2005

TIME:

9:00 a.m. PST

To produce and permit inspection and copying of the documents or objects in accordance with Attachment A at the place, date, and time specified above, at the request of the Petitioners in the above-entitled cause. If documents or objects are received at the above specified location by the specified date and time, or in advance at a mutually agreed upon time and place, your attendance is waived.

DATED this 22nd day of April, 2005.

Davis Wright Tremaine LLP Attorneys for Petitioners

Bv

Harry J. F. Korrell, WSBA #23173 Robert J. Maguire, WSBA #29909 1501 Fourth Avenue, Suite 2600

Seattle, Washington 98101-1688

Telephone: (206) 622-3150

#### **ATTACHMENT "A"**

#### I. **DEFINITIONS**

"Document" means, without limiting without limiting its generality, the original (or a copy when the original is not available) and each non identical copy (including those which are non identical by reason of notations and markings) of papers, writings and records of any nature whatsoever, including, but not limited to, electronic mail messages, contracts, agreements, correspondence, letters, telegrams, wires, cables, reports, schedules, diaries, statements, photographs, reproductions, maps, surveys, plats, drawings, blueprints, sketches, charts, models, invoices, purchase orders, ledgers, journals, checks, check stubs, notes, estimates, summaries, desk calendars, work papers, studies, appointment books, time sheets, logs, inventories, printouts, computer tapes, tape recordings, video recordings, microfilm, microfiche, recordings, or other data compilations from which information can be' obtained through detection devices into reasonably usable form, minutes of meetings, memoranda, including intercorporate, intracorporate, interoffice and intraoffice memoranda, memoranda regarding conferences, conversations or telephone conversations and any and all written, printed, typed, punched, or recorded matter of whatsoever kind of description, including drafts of any of the foregoing, as well as any computer disks, computer files, computer hard drives, computer backup tapes, archival media, or other electronic data, document or message storage of any kind or nature (whether on a disk, hard drive, file server, personal computer or other medium).

"You" or "your agents, servants, employees, attorneys, or representatives" includes but is not limited to all persons, professionals and/or associates, legal assistants and/or support staff who performed work as part of your team or under your supervision or at your direction in connection with the topics identified in this subpoena.

## II. INSTRUCTIONS

- 1. Please produce all the documents, described below, wherever located, which are in the possession, custody or control of you or any of your agents, servants, employees, attorneys, or representatives.
- 2. Any copy of a document that varies in any way from the original or from any other copy of the document, whether by reason of handwritten or other notation or any omission, shall constitute a separate document and must produced.
- 3. The original of each document requested is to be produced. Each document requested is also to be produced for inspection in its original file folder, file jacket, or cover.
- 4. Documents are to be produced in such a fashion that the specific individual or entity from whom they were obtained can be readily determined.
- 5. If you do not produce any document herein requested under a claim of privilege, work produce, or other ground of non production, please submit in lieu of such document a written statement which:
  - (a) specifies the privilege, work product, or other asserted ground of non-production;
  - (b) describes the nature and general topic of the documents to the extent possible in a manner consistent with the privilege, work product, or other asserted ground of non production;
  - (c) identifies the person or persons who prepared the documents and, if applicable, the person or persons to whom the document was sent;
  - (d) identifies each other person who has seen or had possession of the documents; and

(e) specifies the date on which the document was prepared by the author and/or received by the addressees.

6. If any document was, but no longer is, in your custody or control, state whether it has been lost, destroyed, transferred, or otherwise disposed of, and in each instance, identify the document as completely as possible, including without limitation, the author(s), addressee(s), any person(s) who say the document, the date of the document and date when the document was received, the subject matter of the document, and the circumstances surrounding the disposition of the document and the date that disposition occurred.

## III. DOCUMENTS REQUESTED

Produce copies of:

- 1. All poll book pages from the 2004 General Election containing the names of those individuals listed on the attached Exhibit 1.
- 2. All absentee ballot envelopes from the 2004 General Election returned by those individuals listed on the attached Exhibit 1.
- 3. All provisional ballot envelopes from the 2004 General Election submitted by those individuals listed on the attached Exhibit 1.
- 4. All records reflecting or referring to the restoration of civil rights of those individuals listed on the attached Exhibit 2.
- 5. All records reflecting or referring to civil rights *not* having been restored to those individuals listed on the attached Exhibit 2.

## **EXHIBIT 1**

Voter ID	Last	First	MI	Suffix
2680	LEGGS	KATHLEEN		
61533	SMITH	ERIK		
65494	DILLON	JACK	H.	
118956	LEE	DAVID		
207655	WILSON	ROBERT	Α	
209919	SWASER	JEREMY	Α	

**EXHIBIT 2** 

31005701; 15920403	Kitsap	А	ROBERT	207655 WILSON	20765	Kitsap
11017509	Kitsap	Z	CHRISTIAN	751502 LINENKO	75150:	Pierce
981014499; 1004735	Kitsap		KATHLEEN	2680 LEGGS	268	Kitsap
981010931	Kitsap		DAVID	6 LEE	118956	Kitsap
K9202595S	Kitsap	W	HARVEY	729816 JONES	72981	Pierce
931003925; K9211029S; 9310039250;						
1017977	Kitsap	M	JEFFREY	2684363 GRAY	268436	Clark
931002198; 931003163	Kitsap	Н	JACK	65494 DILLON	6549	Kitsap
1006851	Kitsap	A	LYDIA	342182 DENNING	34218	Pierce
K9207174S; 31014981	Kitsap	С	STEVEN	40096973 BROWN	4009697	King
11005616; 31010535; 891005628; 961007640;					,	
Case no.(s)	Convicted	Middle	First	Last	Voter ID	Voted
	Where					Where

1 2 3 4 5 6 7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF CHELAN 8 9 TIMOTHY BORDERS, et al., No. 05-2-00027-3 Petitioners, 10 CERTIFICATE OF SERVICE 11 v. KING COUNTY, et al. 12 Respondents. 13 and 14 WASHINGTON STATE DEMOCRATIC 15 CENTRAL COMMITTEE, 16 Intervenor-Respondent, 17 And 18 Libertarian Party of Washington State et al., 19 Intervenor-Respondents. 20 MARGARET C. SINNOTT states as follows: 21 1. I am over the age of 18 years and am not a party to the within cause. 22 23 2. I am employed by the law firm of Davis Wright Tremaine LLP. My business and mailing addresses are 2600 Century Square, 1501 Fourth Avenue, Seattle, 24 Washington 98101-1688. 25 26 27

CERTIFICATE OF SERVICE - 1 SEA 1637571v1 55441-4

Davis Wright Tremaine LLP LAW OFFICES

2600 Century Square · 1501 Fourth Avenue Scattle, Washington 98101-1688 (206) 622-3150 · Fax: (206) 628-7699

1	3. On April 22, 2005, the document listed below were served:				
2	Subpoena Duces Tecum to Kitsap County, c/o Alan Miles, Esq.				
3	On the following persons via electronic mail,	with this Certificate of Service as follows:			
4	Kevin Hamilton, Esq.	Thomas Ahearne			
- 5	Perkins Coie LLP Attorneys for Washington State Democratic	<u>For</u> : Secretary of State Sam Reed Foster Pepper & Shefelman			
6	Central Committee 1201 Third Avenue, Suite 4800	1111 Third Avenue, Suite 3400 Seattle WA 98101			
7	Seattle, WA 98101 Email: KHamilton@perkinscoie.com	Email: ahearne@foster.com			
8		D. 1 (1)			
9	<b>Dale M. Foreman</b> Foreman, Arch, Dodge, Volyn &	Richard Shepard John S. Mills			
10	Zimmerman P.S. 124 North Wenatchee Avenue, Suite A	For: Libertarians Shepard Law Office, Inc.			
11	P.O. Box 3125	818 S. Yakima Avenue, #200			
12	Wenatchee WA 98807-3125 Email: dalef@fadvz.com	Tacoma, WA 98405 Email: richard@shepardlawoffice.com			
13		Email: jmillslaw@gmail.com			
14	Gary Riesen	Tim O'Neill  Violeitet County Programting Attorney			
15	Chelan County Prosecuting Attorney PO Box 2596	Klickitat County Prosecuting Attorney 205 South Columbus Ave., MS-CH18			
16	Wenatchee WA 98807-2596 Email: Gary.Riesen@co.chelan.wa.us	Goldendale WA 98620 Email: timo@co.klickitat.wa.us			
17	Barnett N. Kalikow, Esq.	L. Michael Golden			
18	For: Klickitat County Auditor Kalikow & Gusa PLLC	Lewis County Senior Deputy Prosecuting Attorney			
19	1405 Harrison Avenue NW, Suite 207	345 West Main Street			
20	Olympia WA 98502 Email: <u>barnett.kalikow@gte.net</u>	Chehalis WA 98532 Email: <u>LMGolden@co.lewis.wa.us</u>			
21	Gorden Sivley	Jeffrey T. Even, Asst. Attorney General			
22	Michael C. Held Snohomish County Deputy Prosecuting	For: Secretary of State Sam Reed			
23	Attorneys	Attorney General's Office PO Box 40100			
24	2918 Colby Avenue, Suite 203 Everett WA 98201-4011	Olympia WA 98504-0100 Email: <u>jeffe@atg.wa.gov</u>			
25	Email: <u>gsivley@co.snohomish.wa.us</u> Email: <u>mheld@co.snohomish.wa.us</u>				

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**CERTIFICATE OF SERVICE - 3** 

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